



CITY OF DANBURY

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
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MINUTES JUNE 24, 2008

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The meeting was called to order by Vice-Chairman Robert Melillo at 7:30 PM.

Present were Theodore Haddad Jr., Patrick Johnston, David Manacek, Robert Melillo, Larry Stramiello, Andrew Wetmore, Alternate Thomas Spegnolo. Also present was Deputy Planning Director Sharon Calitro.

Absent were Chairman Ted Farah, Richard P. Jowdy and Alternates Victoria Hickey and Jacqueline Perez-Ares

Chairman Farah asked Mr. Spegnolo to take Mr. Jowdy's place for the items on tonight's agenda.

Mr. Manacek led the Commission in the Pledge of Allegiance.

Mr. Johnston made a motion to accept the minutes of April 8, 2008 and April 22, 2008. Mr. Stramiello seconded the motion and it was passed unanimously.

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PUBLIC HEARINGS

7:30 PM - Petition of Nilo Jesús Espinal d/b/a Papi's Liquors LLC, 71 Lake Ave. (#G15070) for a Special Permit for Package Store.

Mr. Wetmore read legal notice. Mrs. Calitro said this is a small storefront in an older building with parking in front and in back of the site. She added that this has received site plan approval from the Planning Dept. She then pointed out the criteria necessary for approval of a special permit as listed in Sec. 3.F.2. of the Zoning Regulations.

Nilo Espinal explained that he has been looking for a site for quite a while and this one is the best as it is just the right size. It was the location of the Domino's Pizza for many years, but has been vacant now for a while. He said the Planning Dept. approved the change of use and he is now working with the Building Dept. on the renovations that will need to be done. He said that it will be staffed by himself, his fiancé and his brother and they all understand the responsibility involved in the sale of liquor. He added that this will be his full-time business so there will be no other employees. There were no questions.

Vice-Chairman Melillo asked if there was anyone to speak in opposition to this and there was no one.

Mr. Johnston made a motion to close the public hearing. Mr. Manacek seconded the motion and it was passed unanimously. Mr. DiCaprio made a motion to move this matter to Old Business. Mr. Haddad seconded that motion and it was passed unanimously.

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7:45 PM - Application of Berkshire Shopping Center, LLC for Town Fair Tire Centers of CT, LLC, 67 Newtown Rd./Space #14 (#L12033), Request for Certificate of Location Approval for Motor Vehicle General Repairer's License under the provisions of Sec. 14-54 of the CT General Statutes, as amended.

Mr. Wetmore read legal notice. Vice-Chairman Melillo said this has received site plan approval as part of a special exception that was approved for the renovation of Berkshire Shopping Center. He then asked Mrs. Calitro to speak regarding this application.

Mrs. Calitro said that it was not really necessary to hold a public hearing as this location is already approved and has existed for many years. Because they are increasing from three bays to five bays, they felt they should come in and get reapproved. Mrs. Calitro then said the Commission's purview in this matter is to look at whether the use is permitted in the zone and if they have gotten the proper approvals to be at this location. The Commission is simply acting as a liaison for the Motor Vehicle Dept. in the same manner as they do for the Liquor Control Commission for new liquor licenses. They are giving local approval for the use on the subject premises. There were no questions.

Vice-Chairman Melillo asked if there was anyone to speak in opposition to this and there was no one.

Mr. Johnston made a motion to close the public hearing. Mr. Wetmore seconded the motion and it was passed unanimously. Mr. Johnston then made a motion to move this matter to Old Business. Mr. DiCaprio seconded that motion and it was passed unanimously.

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8:00 PM - Petition of Peter Phrathep, 130 Triangle St. (#K14007) for Change of Zone from RA-8 to RMF-4. Re-scheduled from 6/10/08 meeting.

Vice-Chairman Melillo said the legal notice was read into the record at the June 10th meeting, so they would not read it again. He explained that no one was present at that meeting, so the Commission continued the hearing until tonight. Mr. Stramiello then read the Planning Commission recommendation, which was negative meaning it will take a two-thirds majority vote to approve this petition. Mr. Melillo read the Planning Dept Staff Report dated May 20, 2008.

Mr. Phrathep then said he wants to add more units to this dwelling so his family can live with him but in their own apartments. Mr. Manacek asked if he meant that he wanted to add more units so his family could all live in this house together. Mr. Phrathep said that was what he wanted. There were no other questions.

Vice-Chairman Melillo asked if there was anyone to speak in opposition to this and there was no one.

Mr. Johnston made a motion to close the public hearing. Mr. Wetmore seconded the motion and it was passed unanimously. After brief discussion it was decided to table this for this evening in hopes of getting a few more members to listen to the tape, so there can be nine members voting on this.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of Camillo M & Gloria Santomero, 14 Padanaram Rd. (#H10121) for Change of Zone from CN-20 to CL-10. Public hearing closed 6/10/08 - 65 day decision making period will be up 7/14/08.

Vice-Chairman Melillo said the there are only seven members present that are eligible to vote on this. Since it had a negative recommendation from the Planning Commission, it needs a two-thirds majority vote for approval. Based on this information, Mr. Johnston made a motion to table this until the next meeting. Mr. Wetmore seconded the motion and it was passed unanimously.

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Petition of Nilo Jesús Espinal d/b/a Papi's Liquors LLC, 71 Lake Ave. (#G15070) for a Special Permit for Package Store.

Mr. Johnston made a motion to approve this petition for the following reasons:

- The proximity of such premises will not have a detrimental effect on any church, school, convent or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood.

Mr. DiCaprio seconded the motion and it was passed unanimously

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Application of Berkshire Shopping Center, LLC for Town Fair Tire Centers of CT, LLC, 67 Newtown Rd./Space #14 (#L12033). Request for Certificate of Location Approval for Motor Vehicle General Repairer's License under the provisions of Sec. 14-54 of the CT General Statutes, as amended.

Mr. DiCaprio made a motion to approve this for the following reasons:

- It will not be detrimental to the health, safety or welfare of the community. Also it has existed in the same location for many, many years and there have never been any problems.

Mr. Spegnolo seconded the motion and it was passed unanimously.

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OTHER MATTERS:

Letter from Attorney Ward Mazzucco requesting a reconsideration of the 6/10/08 vote on the Petition of Sheridan Commons LLC, 12 Home Pl. (portion of #J14161) for Change of Zone from R-3 to RMF-4.

Mrs. Calitro explained that the attorney for the applicant has sent a letter requesting that the Commission reconsider the decision they made at the June 10th meeting with a full body of nine members. Corporation Counsel determined that the Commission could reconsider their decision as long as it had not yet been advertised. Based on this, staff was advised to refrain from publishing this decision so as to give the Commission the opportunity to review this request. If the Commission decides to reconsider this decision, they will need to make a motion to do so and then vote on it. Since the applicant is looking to have nine members vote on this, the Commission will probably need to table this tonight. The applicant has granted us a 65 day extension because the first 65 days will be up on 6/26/08, so tabling it tonight will not be a problem. Vice-Chairman Melillo said that eligible to vote on this petition are: Mr. DiCaprio, Mr. Johnston, Mr. Jowdy, Chairman Farah (both of whom are not present this evening), Mr. Stramiello, Mr. Wetmore, Ms. Perez-Ares, Mr. Spegnolo and himself. Mr. Spegnolo was seated for Mr. Manacek (who was absent) and Ms. Perez-Ares for Mr. Haddad (who abstained from this matter). Vice-Chairman Melillo said that Robert's Rules say that in order to reconsider a decision, the motion must be made by one of the three members who voted against the previous motion. Mr. Johnston then made a motion to reconsider this decision. Mr. DiCaprio seconded the motion. Mr. Johnston said he believes they should reconsider this because there were not enough people present and they shouldn't have voted that night. Mr. DiCaprio said he felt the same way. Vice-Chairman Melillo said he too agreed but would not like to see this set a precedent. He then clarified that when they reconsider this, they will vote on Mr. DiCaprio's motion to approve as if no vote had taken place. He then called the vote on the motion to reconsider this decision and it was passed unanimously. Since there still were not nine members present who were eligible to vote on this, Mr. Johnston made a motion to table this matter until the next meeting. Mr. DiCaprio seconded the motion and it was passed unanimously.

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There was nothing under New Business or Correspondence. Under For Reference Only there were listed two public hearings scheduled for July 8, 2008.

At 8:25 PM, Mr. DiCaprio made a motion to adjourn. Mr. Johnston seconded the motion and it was passed unanimously.